

AMENDED IN SENATE JUNE 21, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1985**

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**Introduced by Assembly Member Galgiani**

February 17, 2010

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An act to add ~~Section 5024.3~~ *Sections 5023.6 and 5024.3* to the Penal Code, relating to *the* Department of Corrections and Rehabilitation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1985, as amended, Galgiani. Corrections: medical equipment and care.

*(1) Existing law authorizes the Department of Corrections and Rehabilitation to enter into contracts with providers of health care services to provide health care services to inmates.*

*This bill would require the department, by January 1, 2011, to adopt industry standard claim forms for use by contract health care providers, to be able to accept electronic submissions of claims from contract health care providers, to perform periodic audits of claims paid to contract health care providers, and to provide remote electronic access to claim status information to contract health care providers. The bill would authorize the department to adopt policies and procedures for enabling electronic health care claims management and processing, and would exempt the adoption, amendment, and repeal of policies and procedures for this limited purpose from the rulemaking provisions of the Administrative Procedure Act.*

**Existing**

*(2) Existing law provides for the Medi-Cal program, administered by the State Department of Health Care Services, pursuant to which medical benefits are provided to low-income persons. Existing law*

requires the department to establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment, as defined. Existing law requires that reimbursement for all durable medical equipment billed to the Medi-Cal program be the lesser of certain amounts.

This bill would permit the Department of Corrections and Rehabilitation, upon approval by the federal receiver, if necessary, to establish a list of covered services and maximum allowable reimbursement rates for durable medical equipment used for inmate medical care. It would provide that reimbursement for these items of durable medical equipment may be the lesser of specified amounts. The bill would permit the department to establish capped rental reimbursement for specific items of durable medical equipment. It would require that items in this category be reimbursed on a monthly rental basis, as prescribed.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. (a) The Legislature finds and declares all of the*  
2     *following:*
  - 3         *(1) Contractors providing hospital care, specialty care,*  
4         *emergency medical transportation, and other health care services*  
5         *form an essential component of the continuum of care that the*  
6         *Department of Corrections and Rehabilitation is required to deliver*  
7         *to its inmates.*
  - 8         *(2) The department will process approximately 300,000*  
9         *individual claims from contract health care providers in the*  
10        *2009–010 fiscal year.*
  - 11        *(3) The department has historically struggled to pay its contract*  
12        *health care providers in a timely manner, causing additional costs*  
13        *to the department and threatening the availability of competent,*  
14        *cost-effective providers willing to serve the department.*
  - 15        *(4) Manual claims processing by the department has resulted*  
16        *in significant and costly errors. A department audit of claims paid*  
17        *during the period of July 1, 2007, to June 30, 2009, inclusive,*  
18        *identified millions of dollars in billing and payment errors, which*  
19        *have resulted in more than fifteen million dollars (\$15,000,000)*  
20        *in contractor refunds to the state as of June 1, 2010.*

1     (5) *The department has made significant progress in reducing*  
2 *its payment backlog and increasing billing accuracy by processing*  
3 *certain health care claims electronically.*

4     (b) *It is the intent of the Legislature that the department achieve*  
5 *even greater efficiency, accuracy, timeliness, and cost savings in*  
6 *processing contract health care claims by adopting industry*  
7 *standard electronic health care management and processing*  
8 *practices and performing periodic audits of claims paid.*

9     SEC. 2. *Section 5023.6 is added to the Penal Code, to read:*

10     5023.6. (a) *The Department of Corrections and Rehabilitation*  
11 *shall, by January 1, 2011, do all of the following:*

12     (1) *Adopt industry standard claim forms for use by contract*  
13 *health care service providers.*

14     (2) *Be able to accept secure electronic submission of claims*  
15 *from contract health care service providers.*

16     (3) *Perform periodic audits of claims paid to contract health*  
17 *care providers.*

18     (4) *Provide secure, remote electronic access to claim status*  
19 *information to those contract health care service providers*  
20 *submitting claims electronically in the manner required by the*  
21 *department.*

22     (b) *The department may adopt policies and procedures for the*  
23 *purpose of enabling electronic health care claims management*  
24 *and processing. The adoption, amendment, or repeal of policies*  
25 *and procedures for this limited purpose are exempt from the*  
26 *rulemaking provisions of the Administrative Procedure Act*  
27 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*  
28 *Division 3 of Title 2 of the Government Code).*

29     ~~SECTION 1.~~

30     SEC. 3. *Section 5024.3 is added to the Penal Code, to read:*

31     5024.3. *Upon approval of the federal receiver, or at such time*  
32 *as the Department of Corrections and Rehabilitation is no longer*  
33 *under the authority of the federal receiver, the Department of*  
34 *Corrections and Rehabilitation may do all of the following:*

35     (a) *The department may establish a list of covered services and*  
36 *maximum allowable reimbursement rates for durable medical*  
37 *equipment as defined in Section 51160 of Title 22 of the California*  
38 *Code of Regulations. The list may specify utilization controls to*  
39 *be applied to each type of durable medical equipment.*

1 (b) The department may set reimbursement for durable medical  
2 equipment, except wheelchairs, wheelchair accessories, and  
3 speech-generating devices and related accessories, at the lesser of  
4 (1) the amount billed pursuant to Section 51008.1 of Title 22 of  
5 the California Code of Regulations, (2) an amount that does not  
6 exceed 80 percent of the lowest maximum allowance for California  
7 established by the federal Medicare Program for the same or similar  
8 item or service, or (3) the guaranteed acquisition cost negotiated  
9 by means of the contracting process provided for pursuant to  
10 Section 14105.3 of the Welfare and Institutions Code plus a  
11 percentage markup to be established by the department.

12 (c) The department may set reimbursement for wheelchairs,  
13 wheelchair accessories, and speech-generating devices and related  
14 accessories at the lesser of (1) the amount billed pursuant to Section  
15 51008.1 of Title 22 of the California Code of Regulations, (2) an  
16 amount that does not exceed 100 percent of the lowest maximum  
17 allowance for California established by the federal Medicare  
18 Program for the same or similar item or service, or (3) the  
19 guaranteed acquisition cost negotiated by means of the contracting  
20 process provided for pursuant to Section 14105.3 of the Welfare  
21 and Institutions Code plus a percentage markup to be established  
22 by the department.

23 (d) The department may set reimbursement for all durable  
24 medical equipment billed to the department utilizing codes with  
25 no specified maximum allowable rate at the lesser of (1) the amount  
26 billed pursuant to Section 51008.1 of Title 22 of the California  
27 Code of Regulations, (2) the guaranteed acquisition cost negotiated  
28 by means of the contracting process provided for pursuant to  
29 Section 14105.3 of the Welfare and Institutions Code plus a  
30 percentage markup to be established by the department, (3) the  
31 actual acquisition cost plus a markup to be established by the  
32 department, (4) the manufacturer's suggested retail purchase price  
33 on June 1, 2006, and documented by a printed catalog or a  
34 hardcopy of an electronic catalog page showing the price on that  
35 date, reduced by a percentage discount not to exceed 20 percent,  
36 or not to exceed 15 percent for wheelchairs and wheelchair  
37 accessories if the provider employs or contracts with a qualified  
38 rehabilitation professional, as defined in paragraph (3) of  
39 subdivision (c) of Section 14105.485 of the Welfare and Institutions

1 Code, or (5) a price established through targeted product-specific  
2 cost containment provisions developed with providers.

3 (e) The department may set reimbursement for all durable  
4 medical equipment supplies and accessories billed to the  
5 department at the lesser of (1) the amount billed pursuant to Section  
6 51008.1 of Title 22 of the California Code of Regulations, or (2)  
7 the acquisition cost plus a 23-percent markup.

8 (f) The department may establish “capped rental” reimbursement  
9 for specific items of durable medical equipment. Items in this  
10 category may be reimbursed on a monthly rental basis not to exceed  
11 a period of continuous use of 10 months. After 10 months of rent  
12 have been paid, the provider shall continue to provide the item  
13 without charge, except for maintenance and servicing fees, until  
14 the medical necessity ends. If the department establishes “capped  
15 rental” reimbursement pursuant to this subdivision, monthly  
16 reimbursement for the rental of these specific items of durable  
17 medical equipment may not exceed 80 percent of the lowest  
18 maximum allowance for California established by the federal  
19 Medicare Program for the same or similar item or service.

20 (g) Notwithstanding Chapter 3.5 (commencing with Section  
21 11340) of Part 1 of Division 3 of the Government Code, actions  
22 under subdivisions (a) and (f) shall not be subject to the rulemaking  
23 provisions of the Administrative Procedure Act or to the review  
24 and approval of the Office of Administrative Law.